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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			HUYNH, SON P	
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			2611	15

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/349,638

Applicant(s)

SHOFF ET AL.

Examiner

Son P Huynh

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 56,57 and 61-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 56,57 and 61-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on 3/15/2004 have been fully considered but they are not persuasive.

In response to Applicant's argument that Freeman and Steel, alone or in combination, do not disclose, teach or suggest an "Interactive browser being dynamically loadable for execution on the processor when the tuner is tuned to a channel carrying a video content program that is interactive", the Examiner respectfully disagrees.

Freeman discloses the data code is inserted into the video signal as trigger point; the controller examines the program for trigger point, If trigger point is detected in the program, information associated with the detected trigger point will be displayed (col. 15, line 45+); the subscriber gain access to the interactive programming on the server via online menu (col. 7, line 10+). Freeman further discloses Interactive programs can be created using the Internet. Interactive program authors can access a particular Internet site and download graphics, audio and video clips and suggested interaction (col. 19, line 34+). Thus, by selecting the online menu to access the Internet, the system must be configured with Dynamic-link library (DLL) file associated with an application so that when online menu is selected, the DLL file is loaded and executed to call up an application for accessing the Internet, such as Internet browser (not show). To support the Internet browser for accessing Internet, Steele reference is provided (see Steele

Art Unit: 2611

reference, col. 5, line 10+) as previously discussed in the Office Action (paper No. 13).

Thus, Freeman in view of Steele teaches "Interactive browser being dynamically loadable for execution on the processor when the tuner is tuned to a channel carrying a video content program that is interactive."

In response to Applicant's argument that neither Freeman nor Steele, alone or in combination, disclose, teach, or suggest "determining if a program is interactive compatible by checking a channel separate from the channel carrying the video content program, the Examiner respectfully disagrees.

Freeman discloses interactive commands, data codes, may either be embedded into data portions of full motion video segments (for example, within the vertical blanking interval), or may reside separately on a storage medium (col. 6, line 11+); the interactive elements may be broadcast synchronously (alternative responses aligned in time, serially, on separate channels, embedded in the existing video and/or transmitted before or during the program (col. 14, line 32+). Thus, the "channel separate from the channel carrying the video content program" as claimed can be interpreted as vertical blanking interval of video content channel or the medium connected to the local storage.

Applicant argues that Steele does not disclose displaying an icon to visually inform the viewer that the program is interactive compatible. Indeed, the only mention of the word "icon" in Steele is in relation to a hyperlink to World Wide Web. Freeman does not

mention the word "icon", and therefore does not cure the defects of Steele. The Examiner respectfully disagrees.

Steele discloses the icons are displayed on the screen (figure 7); user accesses the server by selecting a highlighted word, picture or icon (a program object representation) for more information (col. 2, line 30+). Thus, the "icon" is displayed to inform the viewer that the program is interactive compatible (the icon indicates data associated with the icon can be accessed by selecting the icon). Furthermore, Freeman discloses the interrogatory messages can be presented as graphics displays overlaid by the interactive computer workstation onto a video signal; associated data are provided to user according to user selections to answers to the interrogatory messages (col. 13, line 44+). Thus, the graphical message is located in a selected area and the combination of graphical message and selectable area is interpreted as "icon".

Applicant further argues neither Freeman, Steele, nor Youman, alone or in combination, disclose, teach or suggest "the EPG associating a target specification to a target source with a video content program." The Examiner respectfully disagrees.

Youman discloses a program guide comprises plurality of selectable icon. When user selects an icon on the program guide, video program or data associated with the selected icon is accessed and displayed to user (figures 5, 11, 19 and col. 10, line 44+). Thus, target specification is met by channel information in the program guide; target source with a video content program is met by the video source of the particular video program (e.g., "No Mercy" is provided by TBS on channel 25 – figure 19); Youman

Art Unit: 2611

further discloses an icon "i" is displayed on the screen to indicate that user can selected the icon for more information associated with the program (figure 19 and col. 10, line 44+). By displaying the icon "i" on the screen, the program listing must be checked to ascertain whether the program is interactive compatible.

For reasons given above, the rejections to claims 56-57, 61-67 are maintained as discussed below.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 56, 61, 63-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (US 5,861,881) in view of Steele (US 5,884,056).

Regarding claim 56, Freeman discloses interactive computer 6 comprises memory 284; Remote IR 628 for receives command from user input device. Controller 178 controls Data Tuner 615 to receive program based on the command (figure 13). The controller

Art Unit: 2611

178 also examines the control data for the occurrence of a header code designating the onset of a trigger point in the program. When a trigger point is detected, predetermined additional information (audio segments, graphics data, etc.) is retrieved and displayed on the screen monitor (figure 10+ and col. 15, line 26+). Freeman further discloses the data code is inserted into the video signal as trigger point; the controller examines the program for trigger point, If trigger point is detected in the program, information associated with the detected trigger point will be displayed (col. 15, line 45+); the subscriber gain access to the interactive programming on the server via online menu (col. 7, line 10+). In addition, Freeman discloses Interactive programs can be created using the Internet. Interactive program authors can access a particular Internet site and download graphics, audio and video clips and suggested interaction (col. 19, line 34+). Thus, by selecting the online menu to access the Internet, the system must be configured with Dynamic-link library (DLL) file associated with an application so that when online menu is selected, the DLL file is loaded and executed to call up an application for accessing the Internet. Therefore, Freeman teaches a viewer computing unit (6) for receiving and displaying continuous video content programs, comprising: a memory (284 – figure 13); a processor (178) programmed to determined whether the video content programs are interactive (determining trigger point in program); a tuner (615) to tune to channels carrying the video content programs; Freeman further discloses the predetermined additional information (audio and/or text/graphics) can be

retrieved from Web site locations (col. 19, line 40+). However, Freeman does not specifically disclose an Internet browser stored in the memory.

Steel discloses storing Web browser in client machine 10 (col. 5, line 10+). Therefore, it would have been obvious to one of ordinary skill in the art to modify Freeman to use the teaching as taught by Steele in order to allow computer user to surf the Web.

Regarding claim 61, Freeman discloses the data code is inserted into the video signal as trigger point; the controller examines the program for trigger point, If trigger point is detected in the program, information associated with the detected trigger point will be displayed (col. 15, line 45+); the subscriber gain access to the interactive programming on the server via online menu (col. 7, line 10+). Freeman further discloses Interactive programs can be created using the Internet. Interactive program authors can access a particular Internet site and download graphics, audio and video clips and suggested interaction (col. 19, line 34+). Thus, by selecting the online menu to access the Internet, the system must be configured with Dynamic-link library (DLL) file associated with an application so that when online menu is selected, the DLL file is loaded and executed to call up an application for accessing the Internet. Freeman teaches computer-implemented a method for activating interactive supplemental content (audio and/or text/graphics) for a video content program upon tuning to a channel carrying the video content program, comprising: determining if a program is interactive compatible (determine trigger point in program), where an interactive compatible program is associated with target resources containing data which support interactive functionality,



the target resources being located by corresponding target specification (code of trigger point is linked to a predetermined source at head end, local storage, Internet -col. 15, line 60+);

in an event that the program is interactive compatible, retrieving a target specification associated with the program to activate the target resource in support of interactive functionality for the program (If the trigger point is detected, the audio and/or text/graphics from sources associated with the link of trigger point is displayed with program – col. 15, line 60+). However, Freeman does not specifically disclose an Internet browser.

Steel discloses storing Web browser in client machine 10 (col. 5, line 10+). Therefore, it would have been obvious to one of ordinary skill in the art to modify Freeman to use the teaching as taught by Steele in order to allow computer user to surf the Web.

Regarding claim 63, the claim is directed toward embody the method of claim 61 in “computer program”. It would have been obvious to embody the procedures of Hendricks discussed with respect to claim 61 in a “computer program” in order that the instructions could be automatically performed by a processor.

Regarding claim 64, Freeman discloses the data code is inserted into the video signal as trigger point; the controller examines the program for trigger point, If trigger point is detected in the program, information associated with the detected trigger point will be displayed (col. 15, line 45+); the subscriber gain access to the interactive programming

Art Unit: 2611

on the server via online menu (col. 7, line 10+). Freeman further discloses Interactive programs can be created using the Internet. Interactive program authors can access a particular Internet site and download graphics, audio and video clips and suggested interaction (col. 19, line 34+). Thus, by selecting the online menu to access the Internet, the system must be configured with Dynamic-link library (DLL) file associated with an application so that when online menu is selected, the DLL file is loaded and executed to call up an application for accessing the Internet. In addition, Freeman discloses interactive commands, data codes, may either be embedded into data portions of full motion video segments (for example, within the vertical blanking interval), or may reside separately on a storage medium (col. 6, line 11+); the interactive elements may be broadcast synchronously (alternative responses aligned in time, serially, on separate channels, embedded in the existing video and/or transmitted before or during the program (col. 14, line 32+). Freeman teaches computer-implemented a method for activating interactive supplemental content (audio and/or text/graphics) for a video content program upon tuning to a channel carrying the video content program, comprising: determining if a program is interactive compatible by checking a channel (local storage or VBI) separate from the channel carrying the video content program for presence of the supplemental content (interrogatory message is presented as graphics displays overlaid by the interactive computer workstation onto a video, wherein the graphics data is either sent in VBI of the composite interactive signal, stored on the hard disk or external storage, local storage, etc. col. 13, line 45+ ), where an interactive compatible program is associated with target resources containing data which support

interactive functionality, the target resources being located by corresponding target specification (code of trigger point is linked to a predetermined source at head end, local storage, Internet -col. 15, line 60+);

in an event that the program is interactive compatible, retrieving a target specification associated with the program to activate the target resource in support of interactive functionality for the program (If the message is detected, user can select the message for displaying audio and/or text/graphics from sources associated with the selected information – col. 15, line 60+). However, Freeman does not specifically disclose an Internet browser.

Steel discloses storing Web browser in client machine 10 (col. 5, line 10+). Therefore, it would have been obvious to one of ordinary skill in the art to modify Freeman to use the teaching as taught by Steele in order to allow computer user to surf the Web.

Regarding claim 65, Freeman discloses the data code is inserted into the video signal as trigger point; the controller examines the program for trigger point, If trigger point is detected in the program, information associated with the detected trigger point will be displayed (col. 15, line 45+); the subscriber gain access to the interactive programming on the server via online menu (col. 7, line 10+). Freeman further discloses Interactive programs can be created using the Internet. Interactive program authors can access a particular Internet site and download graphics, audio and video clips and suggested interaction (col. 19, line 34+). Thus, by selecting the online menu to access the Internet, the system must be configured with Dynamic-link library (DLL) file associated with an

Art Unit: 2611

application so that when online menu is selected, the DLL file is loaded and executed to call up an application for accessing the Internet. Freeman teaches a computer implemented method for activating interactive supplemental content (audio and/or text/graphics – col. 19, line 40+) for a video content program upon tuning to a channel carrying the video content program, comprising the steps:

determining if a program is interactive compatible (col. 12, line 35+), where an interactive compatible program is associated with target source containing data which support interactive functionality in conjunction with the interactive compatible program, the target resources being located by corresponding target specifications (graphical interrogatory message is linked to a predetermined source at head end, local storage, Internet. –12, line 35+);

displaying an icon (graphical interrogatory message -col. 13, line 45+) to visually inform the viewer that the program is interactive compatible; and

in an event that the program is interactive compatible, retrieving a target specification associated with the program to activate the target resource in support of interactive functionality for the program (If the trigger point, set by user selection of the message, is detected, the audio and/or text/graphics from sources associated with the link, selected by user, is displayed with program – col. 12, line 37+). However, Freeman does not specifically disclose an Internet browser.

Steel discloses displaying an icon to visually inform the viewer that the program is interactive compatible (figure 7); and storing Web browser in client machine 10 (col. 5,

Art Unit: 2611

line 10+). Therefore, it would have been obvious to one of ordinary skill in the art to modify Freeman to use the teaching as taught by Steele in order to allow computer user to surf the Web.

Regarding claim 66, Freeman discloses the data code is inserted into the video signal as trigger point; the controller examines the program for trigger point, If trigger point is detected in the program, information associated with the detected trigger point will be displayed (col. 15, line 45+); the subscriber gain access to the interactive programming on the server via online menu (col. 7, line 10+). Freeman further discloses Interactive programs can be created using the Internet. Interactive program authors can access a particular Internet site and download graphics, audio and video clips and suggested interaction (col. 19, line 34+). Thus, by selecting the online menu to access the Internet, the system must be configured with Dynamic-link library (DLL) file associated with an application so that when online menu is selected, the DLL file is loaded and executed to call up an application for accessing the Internet. Freeman teaches a computer-implemented method for activating interactive supplemental content (audio and/or text/graphics – col. 19, line 40+) for a video content program upon tuning to a channel carrying the video content program, comprising the steps:

determining if a program is interactive compatible (col. 12, line 35+), where an interactive compatible program is associated with target source containing data which support interactive functionality in conjunction with the interactive compatible program, the target resources being located by corresponding target specifications (graphical

interrogatory message is linked to a predetermined source at head end, local storage, Internet. –12, line 35+);

displaying the interactive supplemental content in response to the viewer activating an icon (displaying audio and/or text/graphic in response to the viewer activating graphical interrogatory message – col. 12,line 37+)

in an event that the program is interactive compatible, retrieving a target specification associated with the program to activate the target resource in support of interactive functionality for the program (If the trigger point, set by user selection of the message, is detected, the audio and/or text/graphics from sources associated with the link, selected by user, is displayed with program – col. 12, line 37+); However, Freeman does not specifically disclose an Internet browser.

Steel discloses displaying the interactive supplemental content in response to the viewer activating icon 52 (figure 7); and storing Web browser in client machine 10 (col. 5, line 10+). Therefore, it would have been obvious to one of ordinary skill in the art to modify Freeman to use the teaching as taught by Steele in order to allow computer user to surf the Web.

Regarding claim 67, Freeman discloses the data code is inserted into the video signal as trigger point; the controller examines the program for trigger point, If trigger point is detected in the program, information associated with the detected trigger point will be displayed (col. 15, line 45+); the subscriber gain access to the interactive programming

Art Unit: 2611

on the server via online menu (col. 7, line 10+). Freeman further discloses Interactive programs can be created using the Internet. Interactive program authors can access a particular Internet site and download graphics, audio and video clips and suggested interaction (col. 19, line 34+). Thus, by selecting the online menu to access the Internet, the system must be configured with Dynamic-link library (DLL) file associated with an application so that when online menu is selected, the DLL file is loaded and executed to call up an application for accessing the Internet. Freeman teaches computer-implemented a method for activating interactive supplemental content (audio and/or text/graphics) for a video content program upon tuning to a channel carrying the video content program, comprising: determining if a program is interactive compatible (determine trigger point in program), where an interactive compatible program is associated with target resources containing data which support interactive functionality conjunction with the interactive compatible program, the target resources being located by corresponding target specification (code of trigger point is linked to a predetermined source at head end, local storage, Internet -col. 15, line 60+); in an event that the program is interactive compatible, retrieving a target specification associated with the program to activate the target resource in support of interactive functionality for the program; automatically displaying the interactive supplemental content together with the program (If the trigger point is detected, the audio and/or text/graphics from sources associated with the link of trigger point is retrieved and automatically displayed with program – col. 15, line 60+). However, Freeman does not specifically disclose an Internet browser.

Steel discloses storing Web browser in client machine 10 (col. 5, line 10+). Therefore, it would have been obvious to one of ordinary skill in the art to modify Freeman to use the teaching as taught by Steele in order to allow computer user to surf the Web.

4. Claims 57 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman (US 5,861,881) in view of Steele (US 5,884,056) and further in view of Youman et al. (US 5,629,733).

Regarding claim 57, Freeman in view of Steele teaches a viewer-computing unit as discussed in the rejection of claim 56. Steele further discloses Internet browser in memory to activate the target resource (figure 4). However, neither Freeman nor Steele specifically discloses an EPG stored in the memory and execute on the processor to organize program information.

Youman teaches an EPG stored in the memory and executable on a processor to organize program information, the EPG associating a target specification (information on the program guide) to a target resource (data source such as SHO, TBS, etc. – figure 19) with a video content programs (e.g. “Big Girls Don’t Cry, They Get Even”, “No Mercy”, etc. - see figures 1, 19-21 and col. 8, line 8+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Freeman and Steele to use the teaching as taught by Youman in order to provide



information of programs to be broadcasted to viewer thereby allow viewer to easily find a program to watch.

Regarding claim 62, Freeman in view of Steele teaches a method as discussed in the rejection of claim 61. However, neither Freeman nor Steele specifically discloses the target specifications are correlated with program in a program listing, and further comprising the steps:

checking the program listing to ascertain whether the program is interactive compatible ;  
and determining that the program is interactive compatible by presence of a target specification being associated with the program in the program listing.

Youman discloses a program guide comprises channels information, program sources information, and indicated data associated with program by displaying "i" icon (figure 19 and col. 10, line 45+). Necessarily, the target specifications (e.g., channel information, interactive information, etc.) are correlated with program in a program listing, and further comprising the steps:

checking the program listing to ascertain whether the program is interactive compatible (e.g., checking the program listing for interactive icon 203 – figure 20); and determining that the program is interactive compatible by presence of a target specification being associated with the program in the program listing (e.g., sources where the interactive icon is linked to –figure 20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Freeman and Steele to use

the teaching as taught by Youman in order to notify user of interactive program thereby allow user to select interactive icon for further information.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Slezak (US 6,006,257) teaches multimedia architecture for interactive advertising in which secondary programming is varied based upon viewer demographics and content of primary programming.

Hoarty et al. (US 6,305,020) teaches system manager and hypertext control interface for interactive cable television system.

Convington (US 5,524,193) teaches interactive multimedia annotation method and apparatus.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son P. Huynh  
June 1, 2004



HAI TRAN  
PATENT EXAMINER